

CALIFORNIA STATE LANDS COMMISSION
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Established in 1938

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February 11, 2022

File Ref: SCH #2022010175

Governor's Office of Planning & Research

City of Yuba City
Public Works Department
Attn: Kevin Bradford
302 Burns Drive
Yuba City, California

Feb 11 2022

STATE CLEARINGHOUSE

VIA ELECTRONIC MAIL ONLY (kbradford@yubacity.net)

Subject: Initial Study and Mitigated Negative Declaration (IS/MND) for Wastewater Treatment Facility (WWTF) Outfall and Diffuser Project, Sutter County

Dear Kevin Bradford:

The California State Lands Commission (Commission) staff has reviewed the Initial Study and Mitigated Negative Declaration (IS/MND) for the Wastewater Treatment Facility (WWTF) Outfall and Diffuser Project (Project), which is being prepared by the City of Yuba City (City). The City, as the public agency responsible for the WWTF and proposing to carry out the Project, is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). The Commission is a trustee agency for projects that could directly or indirectly affect State sovereign land and their accompanying Public Trust resources or uses. Additionally, because the Project involves work on State sovereign land, the Commission will act as a responsible agency.

Commission Jurisdiction and Public Trust Lands

The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions. (Pub. Resources Code §§ 6301, § 6306.) All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the ordinary high-water mark, which is generally depicted by the mean high tide line, except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court. On navigable non-tidal waterways, including lakes, the State holds fee ownership of the bed of the waterway landward to the ordinary low water mark and a Public Trust easement landward to the ordinary high-water mark, except where the boundary has been fixed by agreement or a court decision. Such boundaries may not be readily apparent from present day site inspections.

The Feather River, at the Project location, is State sovereign land landward to the ordinary low-water mark, and the State holds a Public Trust easement imbued on lands between the ordinary low-water mark and the ordinary high-water mark. A lease for the use of sovereign land will be required from the Commission for any portion of the proposed and existing improvements encroaching on State sovereign land.

Project Description

The City proposes to construct a new outfall pipeline and diffuser to meet the City's objectives and needs; the Project would replace the existing outfall pipeline and diffuser that had been damaged.

From the Project Description, Commission staff understands that the Project would include the following components that have potential to affect State sovereign land:

- Project Component 1. Approximately 2 miles of new outfall pipeline, beginning at the bifurcation station and ending at the new diffuser.
- Project Component 2. Diffuser structure consisting of 250 feet of new 36-inch-diameter welded steel pipe buried within the Feather River, and sixteen 12-inch-diameter risers with ports extending above the riverbed.

Environmental Review

Commission staff requests that the City consider the following comments on the Project's IS/MND, to ensure that impacts to State sovereign land are adequately analyzed for the Commission's use of the IS/MND when considering a future lease application for the Project.

General Comments

1. Project Description: It is unclear in the Project Description if the trenching done in the river will require any temporary diversion of water. Please clarify what methods will be used to divert water during in-water work if it is necessary.

2. Based upon information in the IS/MND, staff understands the City is proposing to abandon in place an old/damaged pipeline and diffuser. The portions of these improvements extending onto State sovereign land in the Feather River are not currently under lease. Because they will no longer be in operation, staff requests full removal of these improvements from State sovereign land. Any portion of these improvements remaining on State sovereign land will require authorization under a lease until they are completely removed. In addition, the IS/MND will need to include an analysis comparing the feasibility of full removal to full or partial abandonment of the improvements.

Climate Change

3. The climate crisis is impacting State-owned lands and resources under the Commission's jurisdiction. With this in mind, the City should consider discussing in the Project Description if and how various Project components might be affected by climate change and whether "resilient" designs have been incorporated, especially since the outfall pipeline and diffuser have been damaged in the past. Due to the nature and location of the Feather River, these lands and resources are vulnerable to a range of natural events, such as extreme storms events or drought, which could damage the new outfall pipeline and diffuser. As individual Projects are designed and evaluated, attention should be given to climate change projections to ensure the structures' designs are sufficient to ensure function, safety, and protection of the environment over the expected life of the structure. Governor Brown issued Executive Order B-30-15 in April 2015, which directs state government to fully implement the Safeguarding Plan and factor in climate change preparedness in planning and decision making. Please note that when considering a lease application, Commission staff will: (1) request information from applicants concerning the potential effects of climate change on their proposed projects; (2) if applicable, require applicants to indicate how they plan to address climate change and what adaptation strategies are planned during the projected life of their projects; and (3) where appropriate, recommend project modifications that would eliminate or reduce potentially adverse impacts from climate change, including adverse impacts on public access.

Cultural Resources

4. Title to Resources Within Commission Jurisdiction: The IS/MND should state that the title to all abandoned shipwrecks, archaeological sites, and historic or cultural resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the Commission (Pub. Resources Code, § 6313). Commission staff requests that the City consult with Staff Attorney Jamie Garrett should any cultural resources on state lands be discovered during construction of the proposed Project.

Staff requests that the following statement be included in the IS/MND's Mitigation Monitoring Program: "The final disposition of archaeological, historical, and

paleontological resources recovered on State land under the jurisdiction of the California State Lands Commission must be approved by the Commission.”

Thank you for the opportunity to comment on the IS/MND for the Project. As a responsible agency, the Commission will rely on the adopted IS/MND for issuance of a new lease as specified above (see Section “Commission Jurisdiction and Public Trust Lands”). We request that you consider our comments before adopting the IS/MND.

Please send electronic copies of the adopted IS/MND, Mitigation Monitoring Program, and Notice of Determination, and approving resolution when they become available. Please note that federal and state laws require all government entities to improve accessibility of information technology and content by complying with established accessibility requirements. (29 U.S.C. § 794d; 36 C.F.R. § 1194.1 et seq.; Gov. Code, § 7405.) California State law prohibits State agencies from publishing on their websites content that does not comply with accessibility requirements. (Gov. Code, § 115467.) Therefore, any documents submitted to Commission staff during the processing of a lease or permit, including all CEQA documentation, must meet accessibility requirements for Commission staff to place the application on the Commission agenda.

Refer questions concerning environmental review to Christine Day, Environmental Scientist, at christine.day@slc.ca.gov or (916) 562-0027. For questions concerning archaeological or historic resources under Commission jurisdiction, please contact Jamie Garrett, Staff Attorney, at jamie.garrett@slc.ca.gov or (916) 574-0398. For questions concerning Commission leasing jurisdiction, please contact Ninette Lee, Public Land Management Specialist, at ninette.lee@slc.ca.gov or (916) 574-1869.

Sincerely,



Nicole Dobroski, Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
C. Day, Commission
N. Lee, Commission
J. Garrett, Commission